ognize the rule that, when a legislative classification is questioned, if any state of facts reasonably can be conceived that would sustain it, there is a presumption of the existence of that state of facts, and the burden of showing arbitrary action rests upon the one who assails the classification" *(Professional Fire Fighters Inc. v. City of Los Angeles,* 60 Cal. 2d 276, 289): and, as already discussed, the Legislature has made a finding as to the existence of the pertinent facts.

There is likewise no merit to appellants' claim that sections 8603 through 8606 are unconstitutionally vague and indefinite. The governing standard was recently restated in *Canon v. Justice Court, supra,* 61 Cal. 2d 446, 540: "The language of the section is understandable to people of ordinary intelligence and gives adequate warning of the conduct prescribed . . . 'That there may be marginal cases in which it is difficult to determine the side of the line on which a particular fact situation falls is no sufficient reason to hold the language too ambiguous to define a criminal offense." [Citations.]" Any endorsement by California Democratic Council would clearly fall within the provisions of the challenged statues; in view of this determination, we do not consider several hypothetical situations posed by appellants which could not concern them in light of their admitted status.

Finally, it is asserted that the legislation invades a field preempted by Congress. They rely on section 326, Title 47, United States Code, and *Allen B. Dumont Laboratories v. Carroll,* 184 F. 2d 153. Section 326 provides that the Federal Communications Commission has no censorship power over radio communications, nor the power to make regulations interfering with the right

of free speech by means of radio. While there is broad language in the *Dumont* case to the effect that Congress has occupied the field of television regulation (and that said field is no longer open to the several States), a later Supreme Court decision, comparing the *Dumont* case, notes that the holding in *Dumont* was the narrow one of deciding that state censorship of motion pictures (shown on television) was preempted by a federal statute dealing with communications containing profane or obscene words. *(Head v. Board of Examiners,* 374 U.S. 424, 431 (footnote 10) [83 S. Ct. 1759, 10 L. Ed. 2d 983].) There are no provisions of the Federal Communications Act which deal with pre-primary endorsements, a matter of peculiar state concern; nor have we been cited to any other federal statute which can be said to conflict with the subject legislation.

This last contention, therefore, cannot be sustained.

The judgment is affirmed.

Lillie, *J.*

We concur:

Wood, *P. J.*

Fourt, *J.*

APPENDIX B.

Judgment for Defendants on the Pleadings.

Superior Court of the State of California, for the County of Los Angeles.

California Democratic Council, et al., Plaintiffs, vs. Roger Arnebergh, et al., Defendants. No. 831813.

In the above entitled case motion was made for judgment on the pleadings on March 31, 1964, in Department 67 of the above-entitled Court, the Honorable Shirley M. Hufstedler, Judge presiding, the Plaintiffs being represented by Leon M. Cooper; the Defendants Roger Arnebergh and City of Los Angeles being reprsented by Roger Arnebergh, City Attorney, Bourke Jones, Assistant City Attorney, Claude E. Hilker, Assistant City Attorney, by Claude E. Hilker; the Defendants William B. McKesson and the County of Los Angeles, being represented by Harold W. Kennedy, County Counsel; and Edward H. Gaylord, Assistant County Counsel, by Edward H. Gaylord; and the Defendants Stanley Mosk and State of California being represented by Stanley Mosk, Attorney General, Charles A. Barrett, Assistant Attorney General, and Sanford M. Gruskin, Deputy Attorney General, by Sanford M. Gruskin, and it appearing to the Court that the First Amended Complaint as amended, does not state facts sufficient to constitute a cause of action for an injunction and cannot be amended to do so, and it further appearing to the Court that the amended complaint, as amended, sufficiently states facts upon which this Court may make a declaration as to the constitutionality of those sections of the Elections Code involved in this proceeding.

It Is Now Ordered, Adjudged and Decreed:

I

Plaintiffs are not entitled to an injunction or to any other relief by their action except the declarations hereafter made in this judgment.

II

Section 8600, the third and fourth paragraphs of Section 8601, and Sections 8603 through 8606 of the Elections Code are constitutional and may be constitutionally applied to all of the plaintiffs and to each of them.

III

The defendants are entitled to judgment for their costs taxed in the sum of $....., against the plaintiffs, California Democratic Council, a California corporation, Tom B. Carvey, Jr., on behalf of himself and all members of the California Democratic Councel and organizations affiliated therewith who are similarly situated, George E. Brown, Jr., Thomas M. Rees and Charles Warren.

Dated: April 9, 1964.

S. M. Hufstedler
Judge

APPENDIX C.

An act to add Chapter 4 (commencing with Section 8600) to Division 6 of the Elections Code, relating to the endorsement of candidates.

The people of the State of California do enact as follows:

Section 1. Chapter 4 (commencing with Section 8600) is added to Division 6 of the Elections Code, to read:

Chapter 4. ENDORSEMENT OF CANDIDATES FOR PARTISAN OFFICES.

8600. This chapter shall be known and may be cited as the Truth in Endorsements Law.

8601. The Legislature hereby finds the following to be true:

(1) The major political parties have become an integral part of the American governmental system requiring regulation as to their structure, governing bodies, and functions by state government in the public interest.

(2) The Legislature has found it necessary and appropriate in the regulation of political parties to create and provide for the convening of state conventions; state central committees, and county central committees for the parties qualified by law to participate in the direct primary election, by statute.

(3) Over the several years preceding the adoption of this section organizations of electors using as a part of their names the name of a political party qualified to participate in the direct primary election have endorsed candidates for nomination of that party for

partisan office in the direct primary election and have publicized and promulgated such endorsements in a manner which has resulted in considerable public doubt and confusion as to whether such endorsements are those of a private group of citizens or of an official governing body of a political party.

(4) The voting public is entitled to protection by law from deception in political campaigns in the same manner and for the same reasons that it is entitled to protection from deception by advertisers of commercial products.

8602. The state convention, state central committee, and the county central committee in each county are the official governing bodies of a party qualified to participate in the direct primary election. The state convention, state central committee, and the county central committee in each county shall not endorse, support, or oppose, any candidate for nomination by that party for partisan office in the direct primary election. No candidate for such nomination shall claim, nor shall any other person claim on his behalf, that he is the official candidate or the officially endorsed candidate of that party.

8603. Every advertisement, bill, placard, pamphlet or other printed or duplicated matter having reference to any candidate for nomination for partisan office in the direct primary election, which contains a statement or words to the effect that the candidate has been endorsed or is being supported by a political party, political party organization, or organization using as a part of its name the name of a political party or derivative thereof, shall bear on each surface, page, or fold thereof on which such statement or words appear, or on the

front and back surface thereof, in type or lettering at least half as large as the type or lettering of such statement or words or in 10-point roman type, whichever is larger, in a printed or drawn box and set apart from any other printed matter, the following statement:

NOTICE TO VOTERS
(Required by law)

The endorsement hereon is by an unofficial political group. Official organizations of the (name) Party are prohibited by law from endorsing candidates in primary elections.

Nothing in this section shall be construed to apply to any news item, comment, or article, for which no consideration, direct or indirect, is paid by or on behalf of any candidate or committee, and which is published in any regularly published newspaper or magazine which in the ordinary course of business publishes political news items, comments, or articles.

8604. Notwithstanding any provision of Section 8603, in the case of any post card published and circulated by or in behalf of any committee or organization using as a part of its name the name of qualified political party or derivative thereof, which post card is not folded and consists of only two surfaces, on one or both of which surfaces appear a statement or words as described in Section 8603 with reference to a candidate or group of candidates in the direct primary election, the requirements of Section 8603 shall be satisfied if there is printed on both surfaces thereof the words "published by", followed by the name of the com-

mittee or organization printed in not less than 10-point boldface type, followed by the words ", an unofficial political group" printed in not less than 10-point boldface type, provided that this section shall not be construed so as to modify the requirements of Section 11592, and further provided that this section shall not apply to any matter which bears the word "official" followed by the name of the party or derivative thereof, or the words "officially endorsed", or to any matter which violates the provisions of Section 8602.

8605. The requirements of Section 8603 shall apply to any paid political advertisement intended for broadcast or telecast by radio or television, except that the "Notice to Voters" required by Section 8603 shall be read in full instead of printed.

8606. In addition to any other penalty, no payment shall be made or allowed to any person in consideration for his having prepared, printed, published, or circulated, or assisted in the preparation, printing, publishing, or circulating of any advertisement, bill, placard, poster, or other printed or duplicated matter in violation of Section 8603. Any person who knowingly pays or receives a payment in violation of this section is guilty of a misdemeanor.

The Superior court, in any case brought before it by any registered voter, may issue a temporary or permanent restraining order or injunction against the publication, printing, circulation, posting, broadcasting, or telecasting of any matter in violation of this chapter, and all cases of this nature shall be in a preferred position for purposes of trial and appeal, so as to assure the speedy disposition thereof.